IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

WP(C).No. 31713 of 2006(A)

PETITIONER:

MANNARKKAD EDUCATION TRUST,
CHELENKARA, MANNARKKAD P.O., PALAKKAD DISTRICT,
REPRESENTED BY ITS MANAGER SRI. K.A.SIVADASAN.

BY ADV. SRI.SAJEEV KUMAR K.GOPAL
SRI.BINOY VASUDEVAN

RESPONDENTS:

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1. EMPLOYEES PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANISATION,
BHAVISHYA NIDHI BHAVAN, ERANJIPALAM P.O.,
KOZHIKODE.

2. THE ASSISTANT PROVIDENT FUND
COMMISSIONER, EMPLOYEES PROVIDENT FUND
ORGANISATION, P.B.NO.1806, ERANHIPALAM,
KOZHIKODE.

3. EMPLOYEES PROVIDENT FUND APPELLATE
TRIBUNAL, SKYLARK BUILDING, 60 NEHRU PLACE,
NEW DELHI-110 019.

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.31713 of 2006

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Dated this the 30th day of November, 2006.

JUDGMENT

The petitioner is challenging recovery proceedings for recovery of damages awarded under Section 14B of the Employees Provident Fund Act. The damages awarded is Rs.3,92,870/-. Even though petitioner obtained Ext.P3 judgment directing disposal of appeal within one month, the petitioner obviously did not produce copy of the judgment before the appellate authority or otherwise, the appeal would have been disposed of years back. If petitioner had produced the judgment and Tribunal did not comply with it, it was the duty of the petitioner to move for contempt before this court for persistent non-compliance of the judgment by the Tribunal. In the absence of any such step taken by the petitioner, the argument of counsel for the respondents that petitioner was dodging payment under cover of the judgment against recovery is the only presumption possible. In the circumstances and since appeal is still pending, there will be stay against recovery proceedings for four months on the petitioner remitting rupees one lakh within three weeks from now. There will be direction to the petitioner to produce copy of this judgment and copy of receipt of payment of Rs.1 lakh before the Registry of the Tribunal and Tribunal will take up and dispose of the appeal within three months from the date of furnishing copy of this judgment along with the receipt. Recovery proceedings will be kept in abeyance for three weeks and if

payment is made as above, recovery will remain stayed for four months and thereafter recovery will be based on Tribunal's order.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms